



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/675,916	09/30/2003	Brian F. Fitzpatrick	MRZ 9268.2	2091
321 7590 06/05/2008 SENNIGER POWERS LLP ONE METROPOLITAN SQUARE 16TH FLOOR ST LOUIS, MO 63102			EXAMINER ALVAREZ, RAQUEL	
			ART UNIT 3688	PAPER NUMBER
			NOTIFICATION DATE 06/05/2008	DELIVERY MODE ELECTRONIC

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

uspatents@senniger.com

### Office Action Summary

**Application No.**

10/675,916

**Applicant(s)**

FITZPATRICK ET AL.

**Examiner**

Raquel Alvarez

**Art Unit**

3688

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 30 September 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-62 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☐ Claim(s) \_\_\_\_\_ is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☒ Claim(s) 1-62 are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/CDC)
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date: \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_
- Paper No(s)/Mail Date: \_\_\_\_\_

**DETAILED ACTION**

***Election/Restrictions***

1. Restriction to one of the following inventions is required under 35 U.S.C. 121:
  - I. Claims 1-24, 25-47, 63-73, 74, 75-80 and 81 drawn to permitting each participant access to a particular reward program, classified in class, 705 subclass 14.
  - II. Claims 48-50, drawn to sale of a promotional program, classified in class 705, subclass 14.
  - III. Claim 51-53, drawn to designing various promotional programs, classified in class 707, subclass 14.
  - IV. Claim 54, drawn to consolidating client accounts of a reward program, classified in class 705, subclass 14.
  - V. Claims 55-56, drawn to defining a hierarchical group of participants of a reward program, classified in class 705, subclass 14.
  - VI. Claims 57-60, drawn to enrollment template for clients of a reward program, classified in class 705, subclass 14.
  - VII. Claims 61-62, drawn to third party award issuer for providing awards to participants of a reward program, classified in class 705, subclass 14.

The inventions are distinct, each from the other because of the following reasons:

2. Inventions I and II are related as subcombinations disclosed as usable together in a single combination. The subcombinations are distinct from each other if they are shown to be separately usable. In the instant case, invention II has separate utility such

as sale of a promotional program group I has a separate utility such as permitting each participant access to a particular reward program. See MPEP § 806.05(d).

3. Inventions I and III are related as subcombinations disclosed as usable together in a single combination. The subcombinations are distinct from each other if they are shown to be separately usable. In the instant case, invention III has separate utility such as designing various promotional programs and group I has a separate utility such as permitting each participant access to a particular reward program. See MPEP § 806.05(d).

4. Inventions I and IV are related as subcombinations disclosed as usable together in a single combination. The subcombinations are distinct from each other if they are shown to be separately usable. In the instant case, invention IV has separate utility such as consolidating client accounts and group I has a separate utility such as permitting each participant access to a particular reward program. See MPEP § 806.05(d).

5. Inventions I and V are related as subcombinations disclosed as usable together in a single combination. The subcombinations are distinct from each other if they are shown to be separately usable. In the instant case, invention V has separate utility such as defining a hierarchical group of participants and group I has a separate utility such as permitting each participant access to a particular reward program. See MPEP § 806.05(d).

6. Inventions I and VI are related as subcombinations disclosed as usable together in a single combination. The subcombinations are distinct from each other if they are

shown to be separately usable. In the instant case, invention VI has separate utility such as enrollment template for clients and group I has a separate utility such as permitting each participant access to a particular reward program. See MPEP § 806.05(d).

7. Inventions I and VII are related as subcombinations disclosed as usable together in a single combination. The subcombinations are distinct from each other if they are shown to be separately usable. In the instant case, invention VII has separate utility such as third party award issuer for providing awards and group I has a separate utility such as permitting each participant access to a particular reward program. See MPEP § 806.05(d).

8. Inventions II and III are related as subcombinations disclosed as usable together in a single combination. The subcombinations are distinct from each other if they are shown to be separately usable. In the instant case, invention II has separate utility such as sale of a promotional program and group III has a separate utility as designing various promotional programs. See MPEP § 806.05(d).

9. Inventions II and IV are related as subcombinations disclosed as usable together in a single combination. The subcombinations are distinct from each other if they are shown to be separately usable. In the instant case, invention II has separate utility such as sale of a promotional program and group IV has a separate utility such as consolidating client accounts. See MPEP § 806.05(d).

10. Inventions II and V are related as subcombinations disclosed as usable together in a single combination. The subcombinations are distinct from each other if they are

shown to be separately usable. In the instant case, invention II has separate utility such as sale of a promotional program and group V has a separate utility such as defining a hierarchical group of participants. See MPEP § 806.05(d).

11. Inventions II and VI are related as subcombinations disclosed as usable together in a single combination. The subcombinations are distinct from each other if they are shown to be separately usable. In the instant case, invention II has separate utility such as sale of a promotional program and group VI has a separate utility such as enrollment template for clients. See MPEP § 806.05(d).

12. Inventions II and VII are related as subcombinations disclosed as usable together in a single combination. The subcombinations are distinct from each other if they are shown to be separately usable. In the instant case, invention II has separate utility such as sale of a promotional program and group VII has a separate utility such as third party award issuer for providing awards. See MPEP § 806.05(d).

13. Inventions III and IV are related as subcombinations disclosed as usable together in a single combination. The subcombinations are distinct from each other if they are shown to be separately usable. In the instant case, invention III has separate utility such as designing various promotional programs and group IV has a separate utility such as consolidating client accounts. See MPEP § 806.05(d).

14. Inventions III and V are related as subcombinations disclosed as usable together in a single combination. The subcombinations are distinct from each other if they are shown to be separately usable. In the instant case, invention III has separate utility

such as designing various promotional programs and group V has a separate utility such as defining a hierarchical group of participants. See MPEP § 806.05(d).

15. Inventions III and VI are related as subcombinations disclosed as usable together in a single combination. The subcombinations are distinct from each other if they are shown to be separately usable. In the instant case, invention III has separate utility such as designing various promotional programs and group VI has a separate utility such as enrollment template for clients. See MPEP § 806.05(d).

16. Inventions III and VII are related as subcombinations disclosed as usable together in a single combination. The subcombinations are distinct from each other if they are shown to be separately usable. In the instant case, invention III has separate utility such as designing various promotional programs and group VII has a separate utility such as third party award issuer for providing awards. See MPEP § 806.05(d).

17. Inventions IV and V are related as subcombinations disclosed as usable together in a single combination. The subcombinations are distinct from each other if they are shown to be separately usable. In the instant case, invention IV has separate utility such as consolidating client accounts and group V has a separate utility such as defining a hierarchical group of participants. See MPEP § 806.05(d).

18. Inventions IV and VI are related as subcombinations disclosed as usable together in a single combination. The subcombinations are distinct from each other if they are shown to be separately usable. In the instant case, invention IV has separate utility such as consolidating client accounts and group VI has a separate utility such as enrollment template for clients. See MPEP § 806.05(d).

19. Inventions IV and VII are related as subcombinations disclosed as usable together in a single combination. The subcombinations are distinct from each other if they are shown to be separately usable. In the instant case, invention IV has separate utility such as consolidating client accounts and group VII has a separate utility such as third party award issuer for providing awards. See MPEP § 806.05(d).
20. Inventions V and VI are related as subcombinations disclosed as usable together in a single combination. The subcombinations are distinct from each other if they are shown to be separately usable. In the instant case, invention V has separate utility such as defining a hierarchical group of participants and group VI has a separate utility such as enrollment template for clients. See MPEP § 806.05(d).
21. Inventions V and VII are related as subcombinations disclosed as usable together in a single combination. The subcombinations are distinct from each other if they are shown to be separately usable. In the instant case, invention V has separate utility such as defining a hierarchical group of participants and group VII has a separate utility such as third party award issuer for providing awards. See MPEP § 806.05(d).
22. Inventions VI and VII are related as subcombinations disclosed as usable together in a single combination. The subcombinations are distinct from each other if they are shown to be separately usable. In the instant case, invention VI has separate utility such as enrollment template for clients and group VII has a separate utility such as third party award issuer for providing awards. See MPEP § 806.05(d).



Art Unit: 3688

23. These inventions are distinct for the reasons given above and have acquired a separate status in the art because of their recognized divergent subject matter, restriction for examination purposes as indicated is proper.

24. Since the examiner knows from past experience that an election will not be made by telephone, this restriction is proper under MPEP 812.01.

**Point of contact**

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Raquel Alvarez whose telephone number is (571)272-6715. The examiner can normally be reached on 9:00-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Eric w. Stamber can be reached on (571)272-6724. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 3688

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Raquel Alvarez/  
Primary Examiner, Art Unit 3688

Raquel Alvarez  
Primary Examiner  
Art Unit 3688

R.A.  
6/2/2008